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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,092	01/07/2002	Lyle N. Scheer	082225P6337	6565
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SUN/BLAKELY 12400 WILSHIRE BOULEVARD, SEVENTH FLOOR LOS ANGELES, CA 90025-1030			EXAMINER DIVECHA, KAMAL B	
			ART UNIT 2151	PAPER NUMBER

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/042,092

Applicant(s)

SCHEER ET AL.

Examiner

KAMAL B. DIVECHA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,7-9,20,22,25 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-9,20,22,25 and 28-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Response to Arguments**

Claims 1, 2, 7-9, 20, 22, 25, 28-36 are pending in this application.

**Request for Continued Examination (RCE)**

Applicant's arguments with respect to claims 1, 2, 7-9, 20, 22, 25, 28-36 has been considered but are moot in view of the new ground(s) of rejection.

**DETAILED ACTION**

**Specification**

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to adequately teach how to make and use the invention, i.e., failing to provide an enabling disclosure.

The test to be applied under the written description portion of 35 U.S.C. § 112, first paragraph, is whether the disclosure of the application as originally filed reasonably conveys to the artisan that the inventor had possession at that time of later claimed subject matter. Vas-Cat, Inc. v. Mahurkar, 935 F. 2d 1555, 1565, 19 USPQ2d 111, 1118 (Fed. Cir. 1991), reh'rg denied (Fed. Cir. July 8, 1991) and reh'rg, en banc, denied (Fed. Cir. July 29, 1991).

The applicants have failed to provide an enabling disclosure in the detailed description of the embodiment. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to support the subject matter set forth in these claims.

The claims recite “selecting a first network design from among a plurality of network designs for a network having two or more components based upon a design rule”, “configuring network settings, including IP address, links and ports for a first server in the network, the configuration of the network settings based upon the design rule...”, “graphical user interface

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having a function to select a first network design from the plurality of network designs”, and “configuration logic to configure network settings, including IP addresses, links and ports for a first server in the network, the configuration of the network settings based upon the design instructions and the first network design”.

However, the specification merely describes the system to configure, build and deploy a dynamic digital image for one or more components in a network after receiving a design (specification, summary, page 4 [009], page 5 [0010]). There is simply no teaching or suggestion of the fact or the process performing selection of a first network design from among a plurality of network design for a network...and configuring network settings, including IP addresses, ports and links based upon the design rule.

Hence, the above claimed limitation presents subject matter situations and was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

**Claim Rejections - 35 USC § 112**

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1, 2, 7-9, 20, 22, 25, 28-36 are rejected under 35 U.S.C. 112, first paragraph, for the reasons set forth in the objection to specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 35-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 35 recites the limitation “configuring logic installing network translation software on a network component of the network” is unclear. For rejection purposes the network translation software will simply be interpreted as a software, image or code.

Claim 36 recites the limitation “the number of WAN IP addresses” in the claim. There is insufficient antecedent basis for this limitation in the claim.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 7, 9, 20, 22, 25, 28, 29, 31, 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abboud et al. (hereinafter Abboud, US 2002/0184484 A1) in view Nakata (U. S. Patent No. 6,829,216 B1).

As per claim 25, Abboud discloses an apparatus comprising: graphic user interface (fig. 6 item #600); configuring logic to configure network settings, including IP addresses, links and ports for a first server in the network (pg. 3 block #36); digital image building logic to build a digital image with the network settings for the first server in the network (pg. 2 block #15, pg. 5 block #50 and fig. 4B item #459); and deployment logic to deploy the digital image onto the first server in the network (pg. 2 block #16, pg. 3 block #32, 36 pg. 5 block #47, 51, pg. 6 block #61

and fig. 4A item #405), however, Abboud does not disclose design rule logic having design instructions and network topology logic having a function to generate a plurality of network designs for a network having two or more network components according to design list requirements and the design instructions.

Nakata, from the same field of endeavor discloses the system comprising design rule logic having design instructions and a network topology logic having a function to generate a plurality of network designs (i.e. topology) having two or more network components according to design list requirements and the design instructions (col. 3 L12-53, col. 4 L11-41, fig. 2 item #130, item #140).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Abboud in view of Nakata in order to generate a plurality of network designs or topologies based on the design list requirements and the design instructions.

One of ordinary skilled in the art would have been motivated because it would have efficiently designed an optimized network by generating a representation that includes the demands of the network (Nakata, col. 4 L36-40).

As per claim 2, Abboud discloses a system wherein the network comprises a server farm (pg. 1 block#7 and fig. 2).

As per claim 7, Abboud discloses the process of dynamically building the digital image (pg. 5 block #49-50 and pg. 6 block #58).

As per claim 9, Abboud discloses the process of rebuilding the digital image for at least one server in the network and redeploying the digital image for the at least one server (pg. 5 block #52, fig. 6 item #600 and pg. 6 block #58).

As per claim 29, Abboud discloses a system comprising a database to store one or more digital images of a server, one or more network topologies, and network configurations (pg. 5 block #55, pg. 6 block#61).

As per claim 31, Abboud does not disclose the process wherein the design rule instructing how a component in a network can or cannot be employed in the network.

Nakata, from the same field of endeavor discloses the process wherein the design rule instructs how a component in a network can or cannot be employed in the network (col. 3 L11-53, col. 4 L11-41).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Abboud in view of Nakata in order to provide a rule on how component in a network can or cannot be employed.

One of ordinary skilled in the art would have been motivated because of the same reasons as set forth in claim 25.

As per claim 35, Abboud discloses the process where in the configuration logic installs network translation software (simply interpreted as a software or image) on a network component of the network (pg. 2 block #16, pg. 3 block #32, 36 pg. 5 block #47, 51, pg. 6 block #61 and fig. 4A item #405).

As per claims 1, 20, 22, 28 and 33, they do not teach or further define over the limitations in claims 2, 7, 9, 25, 29, 31 and 35. Therefore claims 1, 20, 22, 28 and 33 are rejected for the same reasons as set forth in claims 2, 7, 9, 25, 29, 31 and 35.



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4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abboud et al. (hereinafter Abboud, US 2002/0184484 A1) in view Nakata (U. S. Patent No. 6,829,216 B1), and further in view of Haun et al. (hereinafter Haun, U. S. Patent No. 6,751,658 B1).

As per claim 8, Abboud in view of Nakata does not explicitly disclose the process of deploying the dynamically built image over a network connection in response to a net boot request from a first server.

Haun, from the same field of endeavor, discloses the process of transferring the boot image over a network connection in response to a net boot request from a network client (a network computer or server, fig. 3 step# 355, 375, 380, 385 and col. 9 L9 to col. 10 L16).

Therefore, it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to incorporate the teaching of Haun as stated above with Abboud and Nakata in order to transfer or deploy the boot image in response to a net boot request from a server.

One of ordinary skilled in the art would have been motivated because net booting approach greatly simplifies network computers client administration and provides a high level of reliability for the network computers and/or servers (Haun, col. 9 L33-36).

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5. Claims 30, 32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abboud et al. (hereinafter Abboud, US 2002/0184484 A1) in view Nakata (U. S. Patent No. 6,829,216 B1) and further in view of Johnson et al., (hereinafter Johnson, U. S. Patent No. 6,205,477 B1).

As per claim 30, Abboud in view of Nakata does not disclose the process of sending a request to a Domain Name Server system.

Johnson, from the same field of endeavor discloses the process of sending a request to Domain Name server (col. 2 L45 to col. 3 L19, col. 12 L39-41).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Abboud in view Nakata and further in view of Johnson in order to include a Domain Name server.

One of ordinary skilled in the art would have been motivated because the Domain Name Server is often used to map host names to the IP addresses associated with every computing node on the network (Johnson, col. 2 L6-14).

As per claims 32 and 34, they do not teach or further define over the limitations in claim 30. Therefore claim 32 and 34 are rejected for the same reasons as set forth in claim 30.

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6. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abboud et al. (hereinafter Abboud, US 2002/0184484 A1) in view Nakata (U. S. Patent No. 6,829,216 B1), and further in view of Steitle et al., (hereinafter Steitle, Pub. No.: US 2002/0188700 A1).

As per claim 36, Abboud in view of Nakata does not disclose the process wherein the design list requirement includes functions, hardware amount, hardware type and the number of WAN IP addresses.

Steitle, from the same field of endeavor, discloses the process wherein the user is required to input the design requirements which includes types of network servers, types of software, types of routers, types of clients, relationship among the components, cluster configuration, etc. (pg. 1 [0013-0015], pg. 2 [0018-0019], pg. 5 claim 43).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify Abboud in view of Nakata in order to include design requirements such as functions, hardware amount, hardware type and the number of WAN IP addresses.

One of ordinary skilled in the art would have been motivated because it would have designed a network based on the input or the requirement (Steitle, pg. 2 [0019]).

**Additional References**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Abboud et al., U. S. Patent No. 6,636,958 B2.
- b. Ludovici et al., U. S. Patent No. 6,567,849 B2.
- c. Wilde et al., U. S. Patent No. 6,066,182.
- d. Knox et al., U. S. Patent No. 5,978,911.
- e. Selitrennikoff et al., U. S. Patent No. 6,301,612 B1.
- f. Li et al., U. S. Patent No. 6,012,088: Automatic Configuration For Internet Access Device.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMAL B. DIVECHA whose telephone number is 571-272-5863. The examiner can normally be reached on Increased Flex Work Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kamal Divecha  
Art Unit 2151  
May 17, 2006.



ZARNI MAUNG  
PATENT EXAMINER